

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Baron Montero Jones,

Petitioner,

v.

Civil No. 11-924 (JNE/AJB)
ORDER

State of Minnesota,

Respondent.

On May 13, 2011, the Court dismissed this action. Approximately two months later, the Court denied Petitioner's post-judgment motions. He subsequently filed a notice of appeal and an application to proceed in district court without prepaying fees or costs. The Court construes the latter as an application for in forma pauperis status on appeal.

To qualify for in forma pauperis status on appeal, a litigant who appeals must submit information that demonstrates the litigant's inability to pay, or give security for, the appellate filing fees. 28 U.S.C. § 1915(a)(1) (2006). Even if the litigant is financially eligible to proceed in forma pauperis on appeal, the litigant may not appeal in forma pauperis if the district court "certifies in writing that [the appeal] is not taken in good faith." *Id.* § 1915(a)(3). Good faith in this context is judged by an objective standard rather than the subjective beliefs of the appellant. *Coppedge v. United States*, 369 U.S. 438, 445 (1962). To determine whether an appeal is taken in good faith, a court must decide whether the claims to be decided on appeal are factually or legally frivolous. *Id.* An appeal is frivolous, and therefore cannot be taken in good faith, "where it lacks an arguable basis either in law or in fact." *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). For the reasons set forth in the Report and Recommendation, Petitioner cannot challenge his state court conviction by applying for a writ of error coram nobis in federal court. Petitioner's appeal is frivolous. The Court denies his application for in forma pauperis status on appeal.

Based on the files, records, and proceedings herein, and for the reasons stated above, IT
IS ORDERED THAT:

1. The Court certifies that Petitioner's appeal is not taken in good faith.
2. Petitioner's application for in forma pauperis status on appeal [Docket No. 17] is DENIED.

Dated: August 22, 2011

s/ Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge